



Signed and Filed: May 28, 2024

*Dennis Montali*

DENNIS MONTALI  
U.S. Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF CALIFORNIA

In re	)	Bankruptcy Case
	)	No. 20-30711-DM
MARK E. MOON,	)	
	)	Chapter 11
	)	
Debtor.	)	
	)	
<hr/>		
E. MARK MOON and LORI H. MOON,	)	Adversary Proceeding
	)	No. 20-03117-DM
Plaintiffs,	)	
	)	
v.	)	
	)	
MILESTONE FINANCIAL, LLC, et	)	
al.,	)	
	)	
Defendants.	)	
	)	
<hr/>		

**ORDER FURTHER DEFERRING DECISION RE AWARD OF ATTORNEYS FEES**

By its *Order Deferring Decision on Award of Attorney's Fees on Appeal* (Dkt. 154), the court deferred its ruling regarding prevailing party attorney's fees pending the outcome at the Ninth Circuit Court of Appeals of the underlying dispute between the parties over usury and the related cross-appeal regarding post-maturity interest.

1 On April 16, 2024, the Ninth Circuit (Case No. 23-60006)  
2 affirmed the Bankruptcy Appellate Panel's decision affirming  
3 this court's earlier decision on both issues. There was no  
4 further review sought and that decision is now final.

5 The court then issued its *Order Setting Hearing on Motion*  
6 *and Counter-Motion for Award of Attorney's Fees on Appeal* (Dkt.  
7 157) and the parties filed two rounds of further briefs. On May  
8 17, 2024, Cross-appellants Lori and Mark Moon filed their  
9 *Appellee's Motion for Attorneys' Fees* in the Ninth Circuit.

10 The deferred matter came on before the court on May 24,  
11 2024 and the parties discussed their respective views of how best  
12 to proceed. For the reasons stated on the record, the court  
13 determines that the best approach is for it to await instructions  
14 from the Court of Appeals. This is to avoid the risk of  
15 inconsistent decisions and subjecting the parties and the Court  
16 of Appeals to unnecessary duplication of effort and delay.

17 Accordingly, the matter presently pending resolution on  
18 this dispute is DEFERRED pending a decision or some other  
19 direction from the Ninth Circuit Court of Appeals.

20 \*\*END OF ORDER\*\*  
21  
22  
23  
24  
25  
26  
27  
28

COURT SERVICE LIST

ECF Recipients